

Dear Senators GOEDDE, Mortimer, Buckner-Webb, and
Representatives DEMORDAUNT, Nielsen, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the State Board of Education:

IDAPA 08.05.01 - Rules Pertaining To The Rules Governing Seed and Plant Certification (New
Chapter - Fee Rule) (Docket No. 08-0501-1401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 08/07/2014. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/05/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Education Committee and the House Education Committee
FROM: Deputy Division Manager - Eric Milstead
DATE: July 21, 2014
SUBJECT: State Board of Education

IDAPA 08.05.01 - Rules Pertaining To The Rules Governing Seed and Plant Certification (New Chapter - Fee Rule) (Docket No. 08-0501-1401)

The state board of education has submitted temporary and proposed rulemaking at IDAPA 08.05.01 -- Rules Governing Seed and Plant Certification (Fee Rule). The temporary and proposed rule establishes a new chapter of rules that incorporates by reference the procedures of the Idaho Crop Improvement Association Standards. Also, the temporary and proposed rule adopts the fee schedule of the Idaho Crop Improvement Association Standards.

It appears clear that there is statutory authority providing for the temporary and proposed rule. Section 22-1504, Idaho Code, states specifically that the regents of the University of Idaho (or agent) is authorized to establish reasonable rules as to what shall constitute certified seeds, tubers, plants, etc. (Section 22-1504, Idaho Code.) Furthermore, state law provides that, regarding seed and plant certification, fees may be charged by the "certifying agency, under schedules set forth in rules and regulations for certification of seeds, tubers, plants and plant parts ... but these fees shall have a reasonable relation to the cost, ... " (Section 22-1506, Idaho Code). We note that the fee schedule is not found in the temporary and proposed rule but that the schedule is adopted by reference. (See, Section 014.) The agency states that fees charged by the Idaho Crop Improvement Association are established to offset the costs of seed testing and administration of the seed certification program.

The agency notes that negotiated rulemaking was not conducted because it was not feasible due to the need to adopt a temporary rule and make it effective immediately. We note that the effective date of the temporary rule was May 14, 2014.

It appears that the temporary and proposed rule is authorized pursuant to sections 67-5226 and 22-1504, Idaho Code.

cc: State Board of Education
Tracie Bent

**IDAPA 08 - IDAHO STATE BOARD OF EDUCATION
REGENTS OF THE UNIVERSITY OF IDAHO**

08.05.01 - RULES GOVERNING SEED AND PLANT CERTIFICATION

DOCKET NO. 08-0501-1401 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 14, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-1504, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In 1959 the Idaho legislature passed the "Seed and Plant Certification Act of 1959" (the "1959 Act"). This act vested in the Regents of the University of Idaho, through the College of Agriculture or its agent, the authority for certification of seeds, tubers, plants and plant parts in the state of Idaho. The 1959 Act called for establishing and maintaining reasonable rules and regulations for this purpose. The process for establishing the rules and regulations called for them to be filed with the Department of Agriculture where they would be available for public inspection. Amendments made to the Act in 1990 authorized the adoption of rules and regulations for the purposes of certification of seeds, tubers, plants and plant parts through Idaho Administrative Rules. The proposed changes would create a new administrative rule chapter and incorporate by reference the procedures of the Idaho Crop Improvement Association Standards into this new administrative rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and is a critical component of crop production in the state of Idaho; thus necessary for the protection of the public health and welfare. Additionally, this rule confers a benefit on the Idaho potato industry through enhanced inspection and sample analysis, which is needed for an effective overall disease management program, and aligns the Idaho Crop Improvement Association standards with Title 22, Chapter 15, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

This rule adopts the current fee schedule of the Idaho Crop Improvement Association Standards.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

Fees charged by the ICAI are to offset the costs of seed testing and the costs administering the seed certification program. ICIA cannot properly function without the ability to charge these fees. The public would be in immediate danger from the failure of the seed certification program absent the ability to charge these fees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt a temporary rule and make it immediately effective.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

This rule incorporates by reference the standards of the Idaho Crop Improvement Association. The Association is the duly authorized agent of the Regents of the University of Idaho to administer and conduct seed certification in Idaho pursuant to the Seed and Plant Certification Act (Title 22, Chapter 15, Idaho Code). As such ICIA promulgates seed certification standards. This rule will bring the Seed Certification Standards of the Idaho Crop Improvement Association, Inc. into compliance with Idaho Code by incorporating such standards into the Idaho Administrative Code. Certification of varieties or strains of seeds, tubers, plants and plant parts raised in the state of Idaho and offered or intended to be offered for sale is in the public interest and is a critical component of crop production in the state of Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Donn Thill, Associate Dean, College of Agriculture and Life Sciences, at (208)885-6214, or dthill@uidaho.edu.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2014.

DATED this May 20, 2014.

Tracie Bent
Chief Planning and Policy Officer
Idaho State Board of Education
650 W State St
PO Box 83720
Boise, ID 83720-0037

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF FEE DOCKET NO. 08-0501-1401**

**IDAPA 08
TITLE 05
CHAPTER 01**

08.05.01 - RULES GOVERNING SEED AND PLANT CERTIFICATION

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Title 22, Chapter 15, Idaho Code.

(5-14-14)T

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 08.05.01, "Rules Governing Seed and Plant Certification," by Idaho Crop Improvement Association, Inc.

(5-14-14)T

02. Scope. These rules shall govern the standards and procedures for the certification of seeds, tubers, plants, or plant parts in the state of Idaho by the Regents of the University of Idaho through the Idaho Agricultural Experiment Station in the College of Agricultural and Life Sciences and its duly authorized agent, Idaho Crop Improvement Association, Inc., as an agent and instrumentality and servant of the State.

(5-14-14)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, any written interpretations of the rule of this chapter will be made available at the Idaho State Board of Education office. (5-14-14)T

003. ADMINISTRATIVE APPEAL.

There is no provision for administrative appeals before the Board under this chapter. Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. (5-14-14)T

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into this rule. The Idaho Seed and Plant Certification Standards are adopted by the Idaho Crop Improvement Association. Copies of the following documents may be obtained from the Idaho Crop Improvement Association, Inc. website at <http://www.idahocrop.com/index.aspx>, or from the Idaho Crop Improvement Association, Inc. office. (5-14-14)T

01. General Seed Certification Standards. The General Seed Certification Standards of the Idaho Crop Improvement Association, Inc., as last modified and approved on February 25, 2014. (5-14-14)T

02. Seed Certification Fee & Application Schedule. The Seed Certification Fee and Application Schedule of the Idaho Crop Improvement Association, Inc., as last modified and approved on August 8, 2013. (5-14-14)T

03. Interagency Certification Regulations and Procedures. The Interagency Certification Regulations and Procedures of the Idaho Crop Improvement Association, Inc., as last modified and approved on April 6, 2006. (5-14-14)T

04. Alfalfa Certification Regulations in Idaho. The Alfalfa Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on April 6, 2006. (5-14-14)T

05. Beans Certification Regulations in Idaho. The Beans Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as last modified and approved on December 12, 2009. (5-14-14)T

06. Red Clover Certification Regulations in Idaho. The Red Clover Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 6, 2006. (5-14-14)T

07. Chickpea (Garbanzo Beans) Certification Regulations in Idaho. The Chickpea (Garbanzo Beans) Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 6, 2006. (5-14-14)T

08. Grain Certification Regulations in Idaho. The Grain Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 10, 2014. (5-14-14)T

09. Grass Seed Certification Regulations in Idaho. The Grass Seed Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on March 10, 2014. (5-14-14)T

10. Canola, Mustard and Rapeseed Certification Regulations in Idaho. The Canola, Mustard and Rapeseed Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on January 29, 2014. (5-14-14)T

11. Rules of Certification for Seed Potatoes in Idaho. The Rules of Certification for Seed Potatoes adopted by the Idaho Crop Improvement Association, Inc., as amended and approved on April 21, 2014. (5-14-14)T

12. Pre-Variety Germplasm Certification Regulations in Idaho. The Pre-variety Germplasm Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved April 11, 2014. (5-14-14)T

13. Miscellaneous Crop Certification Regulations in Idaho. The Miscellaneous Crop Certification Regulations adopted by the Idaho Crop Improvement Association, Inc., as amended and approved April 6, 2006.

(5-14-14)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

01. Physical Addresses. The main office of the Idaho Crop Improvement Association, Inc. is located at 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices are located at: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (5-14-14)T

02. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays. These office hours apply to each branch. (5-14-14)T

03. Mailing Addresses. The mailing address for the Idaho Crop Improvement Association, Inc. main office is 429 SW 5th Avenue, Suite 105, Meridian, ID 83642. The branch offices mailing addresses are: 1680 Foote Drive, Idaho Falls, ID 83402; 5920 N Government Way, Suite 10, Dalton Gardens, ID 83815; 2283 Wright Avenue, Suite C, Twin Falls, ID 83303. (5-14-14)T

04. Telephone Numbers. The telephone number for the Idaho Crop Improvement Association, Inc. main office is (208) 884-8225. The telephone numbers for the branches are: Idaho Falls (208) 522-9198; Dalton Gardens (208) 762-5300; Twin Falls (208) 733-2468. (5-14-14)T

05. Fax Numbers. The fax number for the Idaho Crop Improvement Association Inc. main office is (208) 884-4201. The fax numbers for the branches are: Idaho Falls (208) 529-4358; Dalton Gardens (208) 762-5335; Twin Falls (208) 733-4803. (5-14-14)T

006. PUBLIC RECORDS ACT COMPLIANCE.

These rules are public records available for inspection and copying at the Idaho Crop Improvement Association Inc., and the State Law Library. (5-14-14)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the definitions set forth in Title 22, Chapter 15, Idaho Code, the definitions found in the standards of the Idaho Crop Improvement Association, Inc., incorporated by reference in Section 004 of these rules, shall apply to these rules. (5-14-14)T

011. (RESERVED)

012. APPLICABILITY.

These rules shall apply to all seeds, tubers, plants, or plant parts located in, imported into, or exported from the state of Idaho that have an application for certification properly filed with a seed certification agency. (5-14-14)T

013. OFFICIAL IN CHARGE OF CERTIFIED SEED.

The Idaho Legislature, at its 35th Session, enacted Senate Bill No. 107, the "Seed and Plant Certification Act of 1959". This Act designated the Regents of the University of Idaho, through the Agricultural Experiment Station of the College of Agriculture, as the seed certifying agency for the State. This Act further gives the Regents of the University of Idaho the authority to designate an agent to administer and conduct the certification program. The Regents of the University of Idaho on April 27, 1959, appointed the Idaho Crop Improvement Association, Inc., as its duly authorized agent to administer and conduct seed certification in Idaho as provided by the Seed and Plant Certification Act of 1959. (5-14-14)T

014. SEED CERTIFICATION FEE AND APPLICATION SCHEDULE.

The Idaho Crop Improvement Association may assess a fee to defray the costs of seed testing and administration of the seed certification program. Fees are established through the Idaho Crop Improvement Association, Inc. (5-14-14)T

015. -- 999. (RESERVED)